

THE HONORABLE Marc L. Barreca  
Chapter 13  
Location: Port Orchard  
Date of Hearing: September 18, 2013  
Time: 1:00 p.m.  
Response Date: September 11, 2013

**UNITED STATES BANKRUPTCY COURT  
Western District of Washington at Seattle**

**IN RE:** ) **CH.13 CASE NO. 11-17331-MLB**  
 )  
**EDDIE EARL PAYNE, JR.,** ) **MOTION AND DECLARATION FOR**  
**ALICIA ANN PAYNE,** ) **TURNOVER OF TITLE AND FOR**  
 ) **TERMS RE: HSBC/Kawasaki**  
**Debtors.** )  
 )

**MOTION FOR TURNOVER OF TITLE AND TERMS**

COMES NOW, debtors, EDDIE EARL PAYNE, JR. and ALICIA ANN PAYNE ,  
by and through their attorney, DAVID CARL HILL, and moves this court for an order  
compelling respondent, HSBC, to release title to Stephen Payne for the 2008 Vulcon 900  
Kawasaki motorcycle, and for attorney fees in the amount of \$750.00 if the matter is  
uncontested or such additional fees as the Court deems appropriate if the matter is contested.

This motion is based upon the information which follows:

**I. PARTIES AND JURISDICTION**

The debtors filed a petition for relief under Title 11 United States Code. Each  
respondent's identity and status is indicated above and the residence or principal place of  
business of each respondent is as follows:

HSBC/Kawasaki  
Attn: Bankruptcy Department  
P.O. Box 5213  
Carol Stream, IL 60197

Motion and Declaration for  
Turnover of Title and Terms

- 1 -

LAW OFFICE OF  
DAVID CARL HILL,  
Hill Law.Com, P.S.  
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1 Jurisdiction of this court over the parties and subject matter of this action is based  
2 upon 11 U.S.C.

3 II. 11 U.S.C. SECTION 362

4 On June 21, 2011, the debtors above filed a Chapter 13 bankruptcy under 11 U.S.C.  
5 in connection there with, debtors filed a plan for the repayment of creditors. That plan  
6 provided specifically that debtor's son, Stephen Payne, would maintain the payments to  
7 HSBC for the Kawasaki motorcycle. Debtors were merely cosigners on that loan for their  
8 son. Stephen Payne made all payments pursuant to the contract and the obligation, together  
9 with contractual interest which has been paid in full. On March 28, 2013, counsel directed  
10 a letter to HSBC requesting a release of the title. To date HSBC has ignored said request and  
11 title remains encumbered. This is created a hardship for debtors' son as it restricts his ability  
12 to insure and sell the motorcycle.

13 WHEREFORE, the debtors pray that this Court compel HSBC to immediately  
14 relinquish title to the 2008 Vulcan 900 Kawasaki and for a further award against HSBC for  
15 attorney fees in the amount of \$750.00 if the matter is uncontested or such additional fees as  
16 the Court deems appropriate if the matter is contested.

17 DATED this August 12<sup>th</sup>, 2013.

18  
19 /s/ David Carl Hill  
20 DAVID CARL HILL, WSBA #9560  
21 Attorney for Debtors  
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27 Motion and Declaration for  
28 Turnover of Title and Terms

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**DECLARATION OF EDDIE EARL PAYNE, JR.**

I, Eddie Earl Payne, Jr., declare under penalties of perjury that the following is true and correct:

I am one of the debtors in the above entitled matter. We cosigned a loan with HSBC for our son in connection with the purchase of the 2008 Vulcan 900 Kawasaki. In our Chapter 13 Plan we specified that our son would continue to make the payments on that vehicle outside of the plan. He fulfilled the terms of the contract many months ago. However HSBC refuses to surrender the title to him. We requested that our attorney contact HSBC to request the title. To date neither we nor our son have received any response or the title. HSBC has no grounds for withholding the title since they were paid in full in conformance with the terms of the contract. As result of their negligence, we have incurred attorneys fees to compel the surrender of title.

For the foregoing reasons I respectfully request that HSBC/Kawasaki be compelled to turn over the title and pay the attorneys fees associated with this motion.

Respectfully submitted.

/s/ Eddie Payne Jr.  
Eddie Earl Payne, Jr